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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,269	03/16/2004	James D. Petruzzi	RRV-100	4744
29281	7590	10/20/2005	EXAMINER	
JAMES D. PETRUZZI 4900 WOODWAY SUITE 745 HOUSTON, TX 77056			GOINS, DAVETTA WOODS	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.P.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,269	<b>Applicant(s)</b> PETRUZZI, JAMES D.	
	<b>Examiner</b> Davetta W. Goins	<b>Art Unit</b> 2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Terminal Disclaimer*

1. The terminal disclaimer filed on July 18, 2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent 6,417,763 B1 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter (US Pat. 6,166,310).

In reference to claim 1, Carter discloses a) the claimed base, which is met by open top container 16 (Figure 1), b) the claimed pump in the base for moving liquid into a receptacle and a control circuit for generating electric power to the pump for moving the liquid in the receptacle, which is met by electric water pump 18 in which water is forced from the pump 18, rises and exits from the upper end of the pipe 21 to run water over chimes 10 and 11 (col. 2, lines 12-25), and c) the claimed fixed body in the receptacle against which the chime contacts thereby making a noise, which is met by clapper 30, disposed in the container 16 on top of a hub 27, to come into contact with and strike chimes 10 and 11 (thus producing sound) (col. 2, lines 46-67). Although Carter

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doesn't specifically disclose the claimed at least one chime "disposed" in the receptacle, he does disclose that chimes 10 and 11 are disposed just above the container 16 (Figures 1 and 6). Since Carter discloses an electric pump that brings water from a receptacle to operate a clapper to strike chimes to make sound, it would have been obvious to one of ordinary skill in the art at the time of the invention to place a chime within the receptacle or at any location to ensure that chimes will be struck.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter in view of Tury et al. (US Pat. 5,208,578).

In reference to claim 3, Carter discloses the claimed pump for pumping liquid and a chime that moves in direct response to movement of liquid thereby creating a sound, which is met by an electric water pump 18 in which water is forced from the pump 18, rises and exits from the upper end of the pipe 21 to run water over chimes 10 and 11 (col. 2, lines 12-25). Although Carter does not disclose the claimed base having a motor for generating intermittent power to a pump, he does disclose an electric water pump 18 that forces water into a pipe 21 to lift hub 27 that will allow clapper 30 to strike chimes 10 and 11 (col. 2, lines 1-61). Tury discloses a light powered chime including a resultant circuit action produces an intermittent rotation of motor shaft 4 (col. 2, lines 26-66). Since both Carter and Tury disclose circuits that operate to control the operation of chimes, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of a motor for generating intermittent power to a pump, as

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disclosed by Tury, with the system of Carter, to provide a sound that would closely mimic a chime operated by wind by not including even intervals of sound (col. 1, lines 21-45).

*Allowable Subject Matter*

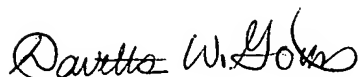
5. Claim 2 is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Davetta W. Goins  
Primary Examiner  
Art Unit 2632



D.W.G.

October 18, 2005